

12/30/2005 21:07 4036090434
SEND BY FACSIMILE TO: (571) 273-8300

TONY LAMBERT

DEC 30 2005

PAGE 01

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0851-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/658,277
	Filing Date	09/10/2003
	First Named Inventor	VARNEY
	Art Unit	3744
	Examiner Name	JIANG, CHEN WEN
	Attorney Docket Number	003-49
Total Number of Pages in This Submission		7

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks A petition for considering a notice of appeal to be timely filed is attached.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	CUSTOMER NUMBER 020212		
Signature	<i>Tony Lambert</i>		
Printed name	ANTHONY R. LAMBERT		
Date	Dec. 30 / 05	Reg. No.	32,813

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:		
Signature	<i>Tony Lambert</i>	
Typed or printed name	ANTHONY R. LAMBERT, REG. NO. 32,813, CUST. NO. 020212	Date
		Dec. 30 / 05

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**RECEIVED
CENTRAL FAX CENTER****DEC 30 2005**

Appl. No. : 10/658,277 Confirmation No. 2450
Applicant : VARNEY
Title : HEAT EXCHANGER OPTIMIZATION PROCESS AND
APPARATUS
Filed : 09/10/2003
Art Unit : 3744
Examiner : JIANG, CHEN WEN
Docket No. : 003-49
Customer No. : 020212
:

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**PETITION UNDER 37 CFR 1.8
FOR TIMELY FILING OF CORRESPONDENCE**

Sir:

1. Applicant hereby requests entry of the notice of appeal filed by applicant on October 3, 2005.
2. The notice of appeal was facsimile transmitted on October 3, 2005 to the fax number for the Board of Patent Appeals and Interferences (571-273-0053) instead of to the central fax number 571-273-8300. The notice of appeal was in response to the final action dated June 3, 2005 and was filed with a one month extension of time.
3. The undersigned checked PAIR on December 30, 2005 and found that the notice of appeal had not been recorded.
4. The undersigned also filed an amendment after final to place the application in condition for allowance with a one month petition for extension of time on December 30, 2005 on the assumption that the notice of appeal had been timely filed. This amendment after final would be timely filed if the notice of appeal was timely filed.
5. A copy of the notice of appeal, petition for one month extension of time and credit card payment form, as filed on October 3, 2005, are attached hereto.

U.S. Serial No. 10/658,277


2

Inventor: VARNEY

Title: HEAT EXCHANGER OPTIMIZATION
PROCESS AND APPARATUS

6. As stated in the certificate of facsimile transmission in the attached notice of appeal, the notice of appeal, including the petition for one month extension of time and credit card payment form, were facsimile transmitted to the USPTO on October 3, 2005.
7. Attached hereto is a copy of the sending unit's report confirming transmission.
8. In the alternative, applicant hereby requests revival of the instant patent application based on unintentional abandonment. If the application is abandoned, it was unintentional, for the reasons given in this petition. If necessary, please charge the required fee to deposit account no. 12-0434. However, it is believed that this fee is not required.
9. Please enter both the notice of appeal, and the amendment after final filed December 30, 2005.

Respectfully submitted and signed on Dec. 30/05.



ANTHONY R. LAMBERT
Registration No. 32,813
Customer no. 020212
Telephone: (780) 448-7326
AGENT OF RECORD